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Second session

New York, 2 to 4 September 2009

Summary record of the 1st meeting

Held at Headquarters, New York, on Wednesday, 2 September 2009, at 10 a.m.

President: Mr. Heller ..... (Mexico)

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The meeting was called to order at 10.15 a.m.

Opening of the meeting

1. **The President** said that the pace at which Member States were signing and ratifying the Convention on the Rights of Persons with Disabilities demonstrated the international community's commitment to promoting and protecting the full enjoyment of all human rights and basic freedoms by such persons. Since the last session of the Conference of States Parties, a further 20 States had become parties to the Convention; in addition, the Committee on the Rights of Persons with Disabilities had held its first meeting, at which it had appointed a chairperson and bureau and had adopted a declaration and various decisions. The 2009 Conference would focus on the legislative measures adopted by States Parties in implementation of the Convention.

2. **Ms. Migiro** (Deputy Secretary-General), noting that a significant number of countries had already adopted new legislation and policies or modified existing legislation in order to bring it into line with the Convention, said that such measures and their enforcement were integral to the implementation of that instrument. She urged all Member States to continue efforts with a view to signing, ratifying and implementing the Convention and its Optional Protocol without delay. The United Nations stood ready to support those efforts at the international, regional and national levels, including through the Inter-Agency Support Group on the Convention on the Rights of Persons with Disabilities, which was finalizing a draft common strategy and plan of action.

3. **Mr. Stelzer** (Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs) said that the Department of Economic and Social Affairs, in collaboration with other United Nations entities, would continue to support the Member States' efforts to sign and ratify the Convention. The high-level panel would provide an opportunity to discuss legislative measures to implement the Convention as a challenging and important first step towards protecting and promoting human rights and development for all persons, with or without disabilities. He also looked forward to the round tables, which would help build the capacities of all participants through, inter alia, the sharing of best practices for implementation of the Convention. In Member States' concerted efforts to implement the Convention, inequity and discrimination against persons with disabilities must be addressed within an integrated development and human rights framework.

4. **Ms. Neuwirth** (Office of the High Commissioner for Human Rights) recalled that the Convention viewed disability as a pathology of society, focusing on the environmental and societal conditions that made a society inclusive or not. The recognition of disability as a human rights issue required dispassionate reflection on the measures needed to give effect to the Convention at the national level. While most of that burden fell on States, the current high-level discussion should not be seen in isolation from previous developments in the context of human rights mechanisms; States could continue to rely on the support of the Office of the High Commissioner for Human Rights (OHCHR).

5. The Committee on the Rights of Persons with Disabilities, which would hold its second meeting in October 2009, would discuss measures taken in implementation of the Convention with States Parties once they had submitted their first reports under article 35 of the Convention in 2010. In addition, the Human Rights Council was actively advancing the goals of the Convention within the United Nations system, particularly through its annual debate on the rights of persons with disabilities. In support of its March 2009 debate on legislative measures for the implementation of the Convention, OHCHR had developed a thematic study which participants had before them. In its resolution 7/9 of March 2009, the Council had recommended that that study should be considered when designing and implementing measures for the promotion and protection of the rights of persons with disabilities. A second study on national frameworks for monitoring and implementation was being prepared and a second interactive discussion was planned for March 2010.

6. **Mr. Al-Tarawneh** (Committee on the Rights of Persons with Disabilities) said that the Committee had made steady progress towards full operational capacity. In addition to electing its bureau, it had drafted working copies of core documents such as reporting guidelines, rules of procedure and working methods, which were expected to be adopted and to enter into force at the Committee's October 2009 session, after which it would be ready to consider and provide feedback based on the first 20 reports by States Parties, to be submitted starting in May 2010.

7. States that had adopted a "dualistic approach" — that is, those which could not implement directly the international human rights treaties to which they were a party or invoke them before the courts and public institutions — must actively adopt legislation to incorporate the Convention into the domestic law. Under article 27 of the Vienna Convention on the Law of Treaties, States could not invoke the provisions of their internal law as justification for their failure to perform a treaty; moreover, reservations made by States Parties that adopted a dualistic approach might present challenges regarding compatibility with the aforementioned article. In any event, ratification and full incorporation of the Convention into the legal system was only a first step; its full implementation would require a proactive approach by States parties and combined efforts at the national and international levels, taking into account the provisions of article 37 of that instrument.

8. Any definition of disability adopted at the national level should be consistent with the Convention and should include mention of the various types of disabilities that resulted from the legal, physical and attitude-related barriers found within society. In the area of criminal law, recognition of the legal capacity of persons with disabilities required abolishing a defence based on the negation of criminal responsibility because of the existence of a mental or intellectual disability. Instead, disability-neutral doctrines on the subjective element of crime should be applied, taking into consideration the situation of the individual defendant. In addition, laws authorizing the compulsory interning of persons with certain types of disability must be abolished and detention laws which led to the restriction of liberty must be defined neutrally so as to be applicable to all persons equally. Lastly, it was important to ensure the consultation and active inclusion of persons with disabilities throughout the process of implementing the Convention.

9. **Mr. Strömgren** (International Disability Alliance) said that legislative measures played a key role in the Convention's implementation. In that connection, he looked forward to the round tables to be held during the Conference, which would address major challenges and gaps in the implementation process thus far. Significant change required the involvement of all stakeholders. None of the challenges posed by the implementation process should be met with reservations or interpretative declarations seeking to change the meaning of what had been agreed by all States and supported by the disability community. He therefore urged States to ratify the Convention without reservations or to withdraw any reservations that they had already made.

10. In order to increase support for implementation, one of the outcomes of the current session of the Conference should be the establishment of an intersessional working group to prepare a technical implementation guidance document on one of the specific issues addressed at the present session. A process should be set up whereby States parties could submit contributions to the working group and subsequently provide feedback on the guidance document prior to its submission to the 2010 session of the Conference.

11. While the International Disability Alliance was surprised by the relatively small number of changes that had resulted from the Convention's entry into force, it was of greater concern that the adjustments made in some countries were inconsistent with the Convention and that many Governments remained unaware of the fundamental changes required in order to implement the Convention. Without reinforced capacity at the national level, the Convention could not be fully implemented. The United Nations system needed to step up promotion of the Convention through a wide range of measures, including the establishment of a fund to promote implementation at the national level; it should also promote the mainstreaming of the rights of persons with disabilities throughout the United Nations system and provide for the participation of representative organizations of persons with disabilities in its decision-making structure. He would welcome feedback and support from States parties regarding the establishment of such a fund.

12. It was important to ensure that all the United Nations specialized agencies, funds and programmes were engaged in the promotion of the rights of persons with disabilities. The Conference of States Parties and the General Assembly should make a clear statement that the Convention was the superseding instrument in the field of disability and that all previous United Nations instruments and documents that were inconsistent with its provisions should be revised or no longer used as reference documents.

13. He urged the swift adoption of the guidelines for United Nations country teams on mainstreaming the

rights of persons with disabilities, which were being prepared by the Inter-Agency Support Group. Lastly, the pace at which the Convention was being ratified was such that the number of experts on the Committee was expected to increase from 12 to 18 by the Conference's next session; he therefore proposed that the 2010 session of the Conference should comprise six meetings over three full days or be extended to four days. Such an arrangement would allow two meetings to be devoted to the election of Committee members and four meetings to substantive discussion. Candidates for election to the Committee should be given time, prior to the actual election, to address the Conference of States Parties and to provide information on their expertise in the area of human rights and disability.

Adoption of the agenda (CRPD/CSP/2009/1)

14. *The agenda was adopted.*

Organization of work

Accreditation of non-governmental organizations (DSPD-09/00237)

15. **The President** drew attention to note No. DSPD-09/00237, which contained the names of non-governmental organizations (NGOs) that wished to be accredited by the Conference. He took it that the States parties wished to accede to those requests.

16. *It was so decided.*

Participation of national human rights institutions (DSPD-09/00255)

17. **The President** drew the attention of States parties to note No. DSPD-09/00255, which contained the names of national human rights institutions that wished to participate in the Conference. He took it that the States parties wished to accede to those requests.

18. *It was so decided.*

Matters related to the implementation of the Convention

(a) High-level panel on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities"

19. **Prince Al-Hussein** (Jordan), Acting Vice-President, said that Jordan had taken steps to bring its domestic law into line with the Convention and, in accordance with article 4, paragraph 1 (b), of the Convention, had established a working group responsible for identifying laws and practices that discriminated against persons with disabilities with a view to their modification or abolishment. With regard to mainstreaming of the protection and promotion of the human rights of persons with disabilities in all policies and programmes, Jordan had adopted a National Strategy for the Affairs of Persons with Disabilities (2007-2015) and had established the Higher Council for the Affairs of Persons with Disabilities, an independent State-funded public entity which he headed, to monitor its implementation. The Council included representation of the Government, NGOs, experts and persons with disabilities. A national conference was to be held in November 2009 in order to review progress made during the first phase of the strategy. Persons with disabilities, through their representative organizations, had been consulted during the development of relevant legislation and of the National Strategy.

20. In compliance with article 33 of the Convention, the Cabinet of Ministers had appointed the Higher Council as the Government's focal point mandated to implement the Convention at the inter-ministerial level. Furthermore, the National Centre for Human Rights had established an independent committee to monitor implementation of the Convention at the national level.

21. **Ms. Mayende-Sibiya** (South Africa), Acting Vice-President, said that South Africa had adopted specific measures to improve accessibility and achieve truly inclusive education and enhanced quality of life for persons with disabilities. Recognizing the integral relationship between poverty and disability, her Government provided social grants to groups classified as vulnerable, including persons with disabilities. It strove to create an enabling economic and political environment for such persons through policy initiatives and special provisions by bodies such as the Independent Electoral Commission.

22. All of South Africa's police stations were being made accessible to persons with disabilities; special needs education was being implemented through a 20-year programme (2001-2021) with short-, medium- and long-term steps; and free health care and access to assistive devices gave eligible persons with disabilities access to a basket of services, including specialized care.

23. The State recognized the integral relationship between poverty and disability and provided social grants to vulnerable groups. One such grant provided specifically for persons who required regular attendance by others. Various policy initiatives had created an economically enabling environment for persons with disabilities; for example, 4 per cent of the students in training programmes offered under the Skills Development Act must be persons with disabilities. In the 2009 national elections, provision was made for voters who, owing to a disability, could not use the voting stations and blind people were able to vote in Braille.

24. The upcoming 2011 census would use questionnaires that accommodated the needs of persons with disabilities and all the articles of the Convention would be translated into policy objectives to be adopted by all partners, including Government and civil society. The Government had undertaken to gather data on persons with disabilities for use in public planning and in the preparation of needs assessments. A Ministry for Women, Children and Persons with Disabilities had been established with a mandate to advance the rights of those groups through monitoring and evaluation, mainstreaming and policy coordination.

25. However, those policies were weakened by the failure of implementers to develop implementation mechanisms and to establish a budget for policy execution. Government departments often neglected to treat as priority or to allocate adequate funding to those policies owing to their failure to understand needs from a human rights perspective. A disability database, so crucial to development, was also lacking.

26. **Ms. Kachere** (Malawi) stressed the critical importance of international cooperation for the full implementation of the Convention. The Government of Malawi had taken a number of measures to make the goals of the Convention a reality, including by establishing a Ministry of Persons with Disabilities and the Elderly; a policy on the equalization of opportunities for persons with disabilities had been launched in 2006 and would mainstream disability issues into all development programmes. Parliament would soon consider a bill to give legislative effect to that policy.

27. The Government had intensified its implementation of community-based rehabilitation, including access to loans, credit and income-generating activities, agricultural inputs and the provision of assistive devices, in order to enhance the effective participation of persons with disabilities in wealth creation activities, reduce poverty and generate economic growth and development.

28. **Mr. Keya** (Kenya) said that although Kenya's Constitution did not make express provision for the rights of persons with disabilities, a Committee of Experts had been appointed to review that instrument, in consultation with organizations of and for persons with disabilities, in order to ensure that the right of all persons to self-determination and equal recognition before the law, and to all the rights and freedoms set out in the State's Bill of Rights, were reflected in the ongoing constitutional reform and that the new Constitution would be fully sensitive and responsive to the rights of persons with disabilities.

29. The 2003 Persons with Disabilities Act guaranteed the rights, rehabilitation and equal opportunity of such persons and had established the National Council for Persons with Disabilities. However, because some provisions of the Act required amendment in order to meet the standards set in the Convention, a persons with disabilities (amendment) bill had been drafted and was awaiting publication and introduction in the National Assembly. The 2001 Children's Act outlawed discrimination against children on grounds of disability, provided for equal access to education for such children and stipulated that children with disabilities who were accused of having infringed any law must be given special care and treated with the same dignity as children without disabilities. The 2006 Sexual Offences Act, which extended special protection where the alleged victim of an offence was a person with a mental disability, was under review in order to ensure consistency with article 12 of the Convention. The National Children's Policy, the National Policy on Persons with Disabilities, the Special Needs Education Policy and the National Social Protection Policy also had a bearing on the rights of persons with disabilities.

30. As a developing country, Kenya must face many challenges with limited resources. His Government was committed to full implementation of the Convention, including through international cooperation and partnerships, and was proud to have achieved so much in such a short time. It recognized the important role played by organizations of and for persons with

disabilities and their right to be fully involved in the implementation and monitoring of the Convention through effective structures.

31. **Ms. Rauh Hornungne** (Hungary), Acting Vice-President, said that Hungary, which had 577,000 persons with disabilities, had been the first State to ratify both the Convention and its Optional Protocol and was working to incorporate the Convention into domestic law. Prior to its adoption, the issue of disability had been governed by the Disability Act and monitored by an advisory body, the National Disability Council. However, the Convention had become the standard used in settling relevant legal and professional disputes and had given impetus to initiatives that would otherwise have been pursued more slowly or differently, including redefinition of the concept of legal capacity; legislative amendments aimed at ensuring equal access and accessibility, including for tourists; and regulations in the areas of sign language, interpretation and education.

32. It was important to bear in mind that the Convention was not an action plan. Its purpose was to provide States with guidance in the field of disability policy. Through intergovernmental, professional and political cooperation, progress could be made at the international as well as the national level; the first crucial step should be ratification on as wide a scale as possible. Incorporation of the rights set forth in the Convention into national policy represented a genuine social investment since what was beneficial in the short term for people living with disabilities would, in the long term, benefit society as a whole.

33. **Mr. Buntan** (Thailand) expressed the hope that the Conference would provide an opportunity to share knowledge, experience, ideas and best practices on implementation of the Convention. Although Thailand had been actively involved in drafting that instrument, it had been unable to ratify it until July 2008 because its legal system required the enactment of amendments to domestic law as a prerequisite for accession. Through campaigning on the street, in parliament and with the Prime Minister and his Cabinet, the constitutional drafting council had been convinced to include disability issues, including a prohibition of discrimination based on disability, in the new Constitution. The 2007 Persons with Disabilities Empowerment Act and the 2008 Persons with Disabilities Education Act, both with implementing rules and regulations, had been adopted and 20 other acts, both new and amended, had been made disability-inclusive and -friendly. The two new Acts sought to increase the participation of persons with disabilities and their representative organizations in the National Committee for Empowerment of Persons with Disabilities and the National Committee for Education of Persons with Disabilities. They redefined disability based on a social model; prohibited discrimination on grounds of disability; improved access to education, employment, health and rehabilitation services; and promoted the use of information, communication and assistive technologies.

34. As a person with a disability, he had the opportunity to work with disability communities in Thailand to improve the State's legislation. Two new acts had recently been adopted unanimously in both houses of parliament: one provided tax deductions for parents and caregivers of disabled persons in need of special care in order to decrease the need for institutionalization, while the other required that the Office of the Ombudsman make its public information available in accessible formats in order to give persons with disabilities better access to justice.

35. The road to full implementation of the Convention was long and Thailand was not a rich country, but all sectors of society stood ready to cooperate. In particular, government agencies were increasingly recognizing the role of persons with disabilities and their representative organizations, thus facilitating the dissemination of disability-related policies. He invited Thailand's friends and partners at the international and regional levels to work tirelessly towards full, effective implementation of the Convention.

36. **Mr. McMullan** (Australia) said that his Government recognized the need to change the way in which persons with disabilities were viewed and treated and to focus on disability as a human rights issue. Ratification of the Convention provided States with a substantive and symbolic opportunity to raise awareness of the right of such persons to live life to their full potential.

37. His Government had undertaken a comprehensive review of its domestic law in order to ensure full implementation of the Convention and had found that no completely new legislation was necessary, although existing legislative and policy mechanisms had been strengthened. However, legislation alone could not

mandate social change; new attitudes and practices were needed in order to remove the barriers that prevented persons with disabilities from achieving their full potential, promote social inclusion and reduce the stigma attached to disability. To that end, Australia was developing a national disability strategy with a view to the effective delivery of policy support and guidance and to the mainstreaming of disability issues.

38. Because laws and policies were of limited use in the absence of monitoring and enforcement, as required under article 33 of the Convention, the Australian Human Rights Commission had been empowered to exercise its conciliation powers in response to any allegation of violation of the Convention by the Government, to prepare guidelines for avoidance of such violations and to report to the Attorney-General on implementation of the Convention in Australia. As an independent advocate, the Commission performed a vital role in promoting rights and educating the wider community.

39. Australia was also committed to leadership in the area of disability at the international and regional levels and was determined to make the issue a central feature of its overseas aid programme through measures that would improve the quality of life of persons with disability, build the capacities of disabled persons' organizations and help its partner countries in Asia and the Pacific to implement the Convention as a condition for achievement of the Millennium Development Goals. Its new international development assistance strategy, Development for All, had been prepared with active input from persons with disabilities in developing countries; in striving for best practices in implementation of the Convention, it was imperative to look to those who knew best: persons with disabilities.

40. **Mr. Villa** (Chile) said that achieving the full, effective participation of persons with disabilities in society required political will on the part of States, efficient institutions and technically and culturally appropriate practices for implementation. Chile had recently begun modernizing its national disability policy and planned to develop a national social inclusiveness plan for the period 2010 to 2018. The plan would include indicators and parameters for establishing starting points and goals and providing follow-up. The institutional framework for its coordinated implementation was being revised and strengthened on the basis of draft legislation that embodied the principles of the Convention; he hoped that it would be adopted by parliament in the near future. Within the framework of the Organization of American States (OAS), Chile had made a proposal concerning parameters for establishing starting points, setting goals and measuring progress by States in compliance with the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

41. A key aspect of follow-up on and evaluation of compliance with commitments was empirical observation of the inclusion and social integration of persons with disabilities. Chile planned to develop a national inclusiveness certificate to be awarded based on evidence of advancing the rights of persons with disabilities to Government departments in the first phase and, later on, in other environments as well. Lastly, profound cultural change was needed in order to revolutionize the way in which disability was dealt with; action plans should incorporate a strategy for change management in order to ensure that the Convention's ultimate goals were not neglected.

42. **Ms. Retana Salazar** (Costa Rica) said that her Government had taken steps to protect the rights of persons with disabilities, especially in the development of its legal system. Since establishing the National Council for Rehabilitation and Special Education in 1973, Costa Rica had enacted legislation on equal opportunity for persons with disabilities; taken steps to accommodate those persons in the electoral process; and reaffirmed the National Council as the institution responsible for developing policy in respect of persons with disabilities. Draft legislation that would give the Council the tools to address new challenges in protecting the rights of persons with disabilities was being prepared in consultation with civil society.

43. **Ms. Tiramonti** (Argentina) said that in accordance with article 33 of the Convention, the National Advisory Committee for the Integration of Persons with Disabilities had been designated as the Government body responsible for overseeing implementation of the Convention and the National Observatory on Disability had been established as a coordination mechanism to facilitate the adoption of related measures at all levels.

44. Argentina had taken a number of specific actions, most recently through the adoption of a programme on gender and disabilities involving the Government and

NGOs, in order to raise awareness about and to promote the objectives of the Convention. All Government agencies were obliged to report regularly on progress in ensuring exercise of the rights of persons with disabilities, and pilot projects had been launched in all the provinces with a view to changing attitudes and preventing discrimination against such persons. Areas of improvement included access to accommodation, inclusive education and rural and cultural life.

45. **Ms. Arabian Couttolen** (Mexico) said that Mexico had undertaken a number of legislative reforms designed to ensure implementation of the Convention, including revision of the first article of the Constitution to prohibit all forms of discrimination, including on the basis of disability, and the adoption of a federal act that introduced a new obligation to adopt preventive, rather than simply remedial, measures, to combat discrimination. The 2005 General Act for Persons with Disabilities had created the National Council for Persons with Disabilities as the coordination mechanism for relevant public policies and had established guidelines for the adoption of measures pursuant to international human rights treaties that referred to persons with disabilities and had been ratified by Mexico. One remaining challenge was the continued alignment of federal and local laws with the Convention. The National Programme on Human Rights and the National Programme for the Development of Persons with Disabilities (2009-2012) had been designed to address that issue.

46. **Mr. McLay** (New Zealand), Acting Vice-President, said that his Government had asked the recently established Ministerial Committee on Disability Issues to identify a possible focal point within the Government to overcome policy overlaps, conflicts and gaps and a mechanism to coordinate actions across sectors and levels in accordance with article 33 of the Convention. The Ombudsmen system, the Human Rights Commission and other mechanisms were the national institutions that protected and promoted human rights.

47. New Zealand had committed itself to involving persons with disabilities in the implementation of the Convention and was exploring ways of doing so. Government agencies should involve persons with disabilities, their families and civil society in any developments that might affect them; in that connection, the Government had begun holding discussions with representative organizations on appropriate approaches to the issue. It planned to develop a guide to the existing legislative requirements on reasonable accommodation and was reformulating its post-census statistical survey on people with disabilities in order to focus more on ordinary life outcomes with a view to the development of indicators. It was also considering how publicly funded support could give persons with disabilities choices and control over their lives so that they could participate in society.

48. **Mr. Grauls** (Belgium) announced that as proof of its commitment to human rights, his Government planned to sign the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. It had also established the post of Secretary of State for Social Affairs with a mandate for disability issues. The Convention was a mechanism for translating the principles enshrined in the Universal Declaration of Human Rights into action and for establishing effective monitoring mechanisms. Belgian law had already included a general prohibition of discrimination against persons with disabilities but, after ratifying the Convention, the Government had undertaken to introduce additional implementing legislation, including with regard to the legal status of such persons and their right to an education and access to information.

49. **Mr. Ney** (Germany) said that his Government had ratified the Convention and its Optional Protocol without any reservation or interpretative statement because it considered respect and support for the rights of persons with disabilities to be of the utmost importance. Since financial and economic crises had the greatest impact on vulnerable persons, ways must be found to ensure that State programmes for persons with disabilities were not suspended owing to a lack of funding. Moreover, parliamentary action that integrated persons with disabilities into society in the spirit of the Convention should be perceived as a gain, not a burden on the general public.

50. Representatives of civil society had been involved in the process leading to ratification of the Convention. Stakeholder involvement had generated public debate on new policies and had created momentum for implementation at the regional and local levels. Since ratification, his Government had initiated new legislation focusing on education, empowerment, awareness-raising, employment, self-determined living and accessibility.

51. Employment was indispensable to self-reliance, yet an alarmingly high percentage of disabled persons worldwide were unemployed or underpaid. The German parliament followed a "supported employment" model and had found it most promising first to look for positions that persons with disabilities could fill, and then to help the person hired to develop the necessary skills by providing a job coach to explain work procedures and to facilitate cooperation between workers with disabilities and their colleagues.

52. Parliamentary efforts had shifted from providing special services to viewing persons with disabilities as individuals and helping them to lead self-determined lives. Such persons had a right to a personal allowance, provided from public funds, that they could spend as they wished; for example, they could choose their own rehabilitation treatment. New regulations required that all new building projects, including hotels, must have special features for the disabled. The Government also planned to launch an action plan aimed at further implementing the Convention at all levels of society and, with the help of civil society, to scrutinize federal, state and community laws in order to find areas where further effort was needed.

53. **Ms. Dunlop** (Brazil) drew attention to a recent proposal put forward in the World Intellectual Property Organization (WIPO) Standing Committee on Copyright and Related Rights. The proposal would establish a workplan with a view to the development of an international instrument securing WIPO member States' formal recognition of and commitment to mandatory exceptions and limitations to copyrights for persons with disabilities, libraries and archives and educational activities. In that connection, Brazil had co-sponsored in the Standing Committee a draft WIPO treaty for improved access for blind, visually impaired and other reading disabled persons. The draft instrument's purpose was to provide the necessary minimum flexibility in laws governing the rights of authors and copyright in order to ensure full, equal access to information and communication for visually impaired persons as an enforceable human right.

54. That initiative was directly related to the Convention, particularly articles 9 and 30 thereof, and should be supported by the Conference of States Parties. She therefore called on the Committee on the Rights of Persons with Disabilities to consider the draft treaty as it related to several provisions of the Convention and to provide additional elements on the rights of persons with disabilities in order to strengthen the WIPO initiative. She recognized the Committee's efforts to examine measures taken in implementation of the Convention at the national level; in the case of intellectual property rights, however, minimum standards of protection were set by treaties that were legally binding at the international level. Therefore, exceptions and limitations to those standards must also be established in a binding international treaty.

55. **Ms. Gendi** (Egypt) said that her country was implementing a strategy aimed at providing training for disabled persons and ensuring their full integration into and participation in society. The Ministry of Housing had disseminated guidelines regarding access to buildings and outside spaces. Another set of guidelines had been issued in order to regulate crèches for children with disabilities and promote early intervention. In 2006, her Government had drafted amendments to the legislation on training for persons with disabilities, taking into account the spirit of the Convention. The Ministry of Social Solidarity was preparing a database on regional training facilities.

56. The Higher Training Council, established in 1975, had been revitalized to ensure the balanced representation of disabled persons with the aim of examining and formulating policy. Her Government was actively promoting the rights of disabled persons in such areas as health, education, training, labour, small-scale enterprises and sports. It was vital that civil society and the United Nations should assist States parties in implementing the Convention.

57. **Mr. Al-Kuwari** (Qatar) said that Qatar had amended its legislation in order to bring it into line with the Convention and had established a Directorate for the Elderly and Persons with Disabilities in the Ministry of Social Affairs. Its mandate included the implementation of relevant strategies, plans and policies; development and implementation of welfare and rehabilitation programmes; organization of public education and awareness-raising activities; implementation of training programmes for those who worked with persons with disabilities; and organization of seminars, conferences and workshops. A draft national strategy for persons with disabilities (2010-2014) based, inter alia, on the Convention, would be implemented as part of Qatar's general strategy on the family.

58. **Mr. Ebner** (Austria) drew attention to the Convention's innovative, forward-looking provisions, including the possibility of accession by regional organizations. In that connection, his delegation strongly supported its ratification by the European Community. The Convention's success could be attributed to three causes: meaningful participation and cooperation of delegations during the meetings of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities; the fact that the negotiations had highlighted the exclusion that persons with disabilities faced and the need to ensure their inclusion; and the involvement of civil society, particularly persons with disabilities and their representative organizations, from the early stages of negotiations. He reiterated his delegation's commitment to the inclusion of non-governmental organizations (NGOs) at both the international and the national levels.

59. His Government was in the process of harmonizing its laws and practice with the Convention and, pursuant to article 33, paragraph 2, had established the Austrian Independent Monitoring Committee. The Committee's seven members, who served in their personal capacity, were nominated by the Austrian National Council of Disabled Persons. Four of those members represented organizations for persons with disabilities, two represented a human rights NGO and a development organization, respectively; and one was a university expert. The Monitoring Committee's rules of procedure provided for the equal participation of persons with disabilities in its activities, including reimbursement of the costs of travel, personal assistance and sign language.

60. The Monitoring Committee could receive and follow up on individual complaints and make general and specific recommendations to the public authorities. It supported awareness-raising activities by providing support for public bodies' implementation of the Convention and cooperated with domestic and international entities such as government focal points, monitoring bodies of other countries, the national body to be established pursuant to article 16, paragraph 3, of the Convention and the expert body in charge of the instrument's monitoring and implementation at the international level. To date, it had received six individual complaints involving the issues of job equality, independent living and personal assistance, the right to family life and early childho intervention. It also sought to place the issues aris from individual complaints in the larger context of t inclusion and participation of persons with disabiliti It had the right to inspect the files of releva institutions and authorities, to take statements and request data and statistics from administrative bodies.

61. **Ms. Espinosa** (Ecuador) said that in recent yea Ecuador had undergone major political and soc change, including with regard to the rights of perso with disabilities. Act No. 180 had established t National Disability Council and the Rights of Perso with Disabilities Defence Network, which handl complaints of discrimination. The Disability Act h been amended to include fines of US$ 250 US$ 5,000 for non-compliance and the Labour Co had been amended to require public and priva companies with a minimum of 25 employees to h persons with disabilities and ensure gender equali Persons with disabilities made up 12.14 per cent of t nation's population; 50 per cent of them were poor. T Ecuador without Barriers Programme was be implemented under the leadership of the Vi President, who had a disability; the Programme soug to promote the social, economic, political and cultu inclusion and integration of persons with disabili The Manuela Espejo Solidarity Mission studi biological, psychological and social issues relating such persons in order to gather information on t causes of disability and the number of disabled perso in Ecuador with a view to the setting of shor medium- and long-term policies.

62. **Mr. Kim** Dangho (Republic of Korea) said th his country's 2008 Disability Discrimination Act h created an oversight and monitoring mechanism with the Ministry of Justice and a National Human Righ Commission. The Five-Year Plan for Persons wi Disabilities (2008-2012) included a comprehensive s of policies in areas such as education, culture, welfa and participation and inclusion in society and w being implemented by all the relevant ministries.

63. His Government welcomed the Secretar General's report on realizing the Millenniu Development Goals for persons with disabiliti through the implementation of the World Programm of Action concerning Disabled Persons and t Convention on the Rights of Persons with Disabiliti (A/64/180) and looked forward to continu

participation in discussions on the issue of mainstreaming disability issues into development.

64. **Ms. Gairola** (India) said that article 41 of the Indian Constitution emphasized that it was the responsibility of the State, within the limits of its economic capacity and development, to make effective provision for securing the right to work, to education and to public assistance in cases of, inter alia, disability. The 1992 Rehabilitation Council of India Act had led to the establishment of that Council, which regulated and monitored the training of rehabilitation professionals and personnel, promoted research in the fields of rehabilitation and special education and set minimum standards for education and related issues. The 1995 Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act had provided a clear definition of disability and mandated specific programmes in the areas of education, rehabilitation, employment, non-discrimination and social security.

65. The 1999 National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act sought to empower such persons to live independently and to participate as fully as possible in their communities. It also established procedures for the appointment of guardians and trustees and measures to facilitate equality of opportunity for persons with disabilities, protect their rights and ensure their full participation in society.

66. The 2006 National Policy for Persons with Disabilities recognized that such persons were a valuable human resource for the country. It established specific goals, including full acknowledgement and exercise of all their human rights and promotion of a broad commitment to accessibility, autonomy and equality of opportunity. The Policy took a three-pronged approach: physical rehabilitation, including early detection and intervention, counselling, medical treatment, provision of aids and appliances and training for rehabilitation professionals; educational rehabilitation, including vocational training; and economic rehabilitation with a view to a dignified life in society.

67. The Ministry of Social Justice and Empowerment and the Central Coordination Committee, chaired by its Minister and with stakeholder representation, coordinated matters relating to implementation of the Policy. Similar committees existed in India's various states, and local bodies were involved in the district disability rehabilitation centres. The Chief Commissioner for Persons with Disabilities, at the central level, and the State Commissioners, at the State level, acted as ombudsmen to address the grievances of persons with disabilities and ensure proper implementation of the Act. India was also a member of the Global Partnership for Disabilities and Development (GPDD).

68. Since ratifying the Convention, the Government had begun the process of amending its legislation in order to bring it into line with the Convention. Several draft amendments were currently under consideration.

69. **Mr. Zhou** Ningyu (China) noted that persons with disabilities in all countries had suffered as a result of the current international financial crisis. It was therefore important for participants in the Conference to exchange experiences regarding their implementation of the Convention and to discuss ways of increasing cooperation in that endeavour.

70. A balance between human rights and social development was needed. States should incorporate disability issues into their macroeconomic and social planning and should adopt specific legislative, judicial, administrative and publicity measures to ensure that persons with disabilities could exercise their right to participate in decision-making at various levels and to have access to education and employment. Increased resources should be allocated to eliminating social discrimination against such persons and increasing the accessibility of infrastructures.

71. Attention should be paid to the special plight of persons with disabilities in developing countries. At present, developed countries and international organizations should focus on helping them weather the financial crisis by providing increased financial and technical assistance and capacity-building.

72. His Government had enacted a Law on the Protection of Persons with Disabilities, Regulations of the Education of Persons with Disabilities and Regulations on the Employment of Persons with Disabilities and every province, autonomous region and municipality had established local implementation measures. The judiciary and assistance agencies also provided legal services and assistance to persons with disabilities. Since China's ratification of the Convention in 2008, the Law had been amended to

bring it into line with the Convention by adding new provisions on accessibility, legal responsibility and the rights and interests of persons with disabilities. The Working Committee on Persons with Disabilities of the State Council was mandated to coordinate implementation of the Convention and the National People's Congress was responsible for related monitoring and inspections.

73. The Government had incorporated into its economic stimulus package measures to safeguard and improve people's lives and enhance social security. It had given persons with disabilities greater input into initiatives aimed at improving their living conditions and had stepped up efforts to build up the social security system and establish a comprehensive, integrated service system for such persons in order to facilitate their participation in social life and promote achievement of the Millennium Development Goals.

74. **Mr. Stenta** (Italy) said that unfortunately, complex parliamentary procedures had delayed Italy's ratification of the Convention. He proposed that the next Conference of States Parties should include a discussion of article 32 and, in particular, the role of international cooperation as an important opportunity for developing countries to share their experiences and developed countries their good practices.

The meeting rose at 1.15 p.m.

United Nations CRPD/CSP/2009/SR.2

Convention on the Rights of Persons with Disabilities

Official Records

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Conference of States Parties to the Convention on the Rights of Persons with Disabilities
Second session
New York, 2-4 September 2009

Summary record of the 2nd meeting
Held at Headquarters, New York, on Wednesday, 2 September 2009, at 3 p.m.

President: Mr. Bródi (Vice-President of the Conference) ..... (Hungary)
later: Prince Al-Hussein (Acting Vice-President of the Conference) ..... (Jordan)

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Round Table 1: Accessibility and reasonable accommodation

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09-50121 (E)

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In the absence of Mr. Heller (Mexico), President of the Conference, Mr. Bródi (Hungary), Vice-President of the Conference, took the Chair.

The meeting was called to order at 3.15 p.m.

Matters related to the implementation of the Convention (*continued*)

(a) High-level panel on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities" (*continued*)

1. **Mr. Momen** (Bangladesh) said that his Government had begun formulating new laws and modifying existing legislation to implement the Convention, in consultation with civil society and all relevant stakeholders. As a first step, a more rights-based approach to disability issues had been adopted. A study had found that as many as 50 per cent of disabilities were preventable and directly linked to poverty. The Government had therefore introduced a number of "safety-net" programmes. Climate change was also a very important issue, since Bangladesh was among the most vulnerable countries and natural disasters led to an increase in the number of people with disabilities.

2. **Ms. Ruiz** (Philippines) said that her country's National Council on Disability Affairs (NCDA), transferred to the Office of the President in 2008, had begun instituting measures to promote, protect and ensure the rights of persons with disabilities, in line with the provisions of the Convention. The Council was working around the country, within the framework of the national human rights action plan, with a view to mainstreaming the human rights of persons with disabilities into regular development planning activities. The projected completion date of the action plan was set to coincide with the sixty-first anniversary of the Universal Declaration of Human Rights, in December.

3. A national social protection programme had been launched to help eradicate poverty and give more children with disabilities the opportunity for education. Many other government agencies were also cooperating on disability issues.

4. A National Disability Summit, to be held on 24 and 25 September, would provide an opportunity to take stock of current practices and indicators, formulate a framework for the implementation of the national human rights action plan, and firm up the roles of all concerned in order to respond more effectively to the concerns of persons with disabilities.

5. **Mr.** Hassan **Ali** (Sudan) said that his country continued to actively promote the rights of disabled persons, notably by adopting relevant legislation. Facilities had been established for the production of prosthetic limbs. The Government was working together with civil society organizations and associations in order to develop projects to assist disabled persons in every aspect of their lives. The conflicts in the Sudan had resulted in a growing number of persons with disabilities. Their plight had received particular attention in the south and east of the country, and most recently in Darfur. His Government was cooperating with international organizations to eliminate landmines, provide psychological and physical therapy, and ensure the disarmament, demobilization and reintegration of victims.

6. On visiting the Sudan and examining the activities of the Ministry of Social Welfare, the former Special Rapporteur on disability had welcomed the progress that had been made. The adoption of the Convention was only a beginning; joint efforts would be needed in order to further its aims. Especially in vast developing countries such as the Sudan, that task would require material and technical support. His country remained committed to the Convention, which reflected the values of the Sudanese people.

7. **Ms. Peña Paula** (Dominican Republic) said that her country had ratified the Convention and it was due to enter into force in the coming months. The Constitution was being revised to reflect the rights of persons with disabilities. The country's disability law was also being revised to bring it into line with the principles of the Convention. A number of other laws in the Dominican Republic recognized the rights of persons with disabilities in relation to a wide range of important issues. The Penal Code included several provisions highlighting the seriousness of crimes committed against persons with disabilities, and the law regulating the national police force included provisions encouraging the integration of persons with disabilities and guaranteeing their right to a pension. Legislation was being implemented gradually owing to limited resources; however, the Dominican Republic was committed to the full implementation of the Convention and had taken a number of steps towards that goal.

8. **Mr. Hermida Castillo** (Nicaragua) said that his country had various laws to protect the rights of persons with disabilities, including the victims of landmines. A law had recently been approved to guarantee instruction in Nicaraguan sign language for students with hearing disabilities. A draft law on equality for persons with disabilities was currently before the National Assembly.

9. The disability rate in Nicaragua had risen in recent years and now represented around 10 per cent of the population. The foreign aggression of the 1980s had been a significant factor in that rise. Disability, coupled with other issues related to poverty, hindered the enjoyment of basic rights. Therefore, one of the earliest initiatives of the Government of Reconciliation and National Unity had been to develop a national programme to overcome poverty and transform the country by developing an alternative, fairer development model and a more democratic power structure.

10. A number of measures were being taken to promote the rights of persons with disabilities, in such fields as education, health care and labour law. A set of minimum accessibility standards had been drawn up and work to improve the accessibility of public buildings was already under way.

11. **Mr. Dale** (Observer for the United States of America) said that disability legislation in the United States reflected the principles of the Convention. The 1990 Americans with Disabilities Act contained some of the strongest protections against discrimination in the world and amendments to it in 2008 had provided even greater guarantees. The Act had been a great achievement and served as a reminder that the shackles holding people back could be broken, not merely endured.

12. President Obama had noted that the rights of persons with disabilities were universal and should be protected around the world. Therefore, the United States had been proud to join the 141 other United Nations Member States in signing the Convention. The work of the Conference must continue outside the meeting rooms, with a view to improving the situation of persons with disabilities, many of whom could not choose the communities in which they lived, had difficulty accessing affordable quality health care, and were unemployed and living in poverty. Discrimination against persons with disabilities was not merely unjust, but also hindered economic development, limited democracy and eroded societies.

13. **Ms. Pérez Álvarez** (Cuba) said that her country had begun working on the rights of persons with disabilities long before ratifying the Convention. A National Council for persons with disabilities had been created in 1996, composed of representatives of State institutions and organizations of persons with disabilities. Cuba also had a National Action Plan for Persons with Disabilities and the Ministry of Labour and Social Security worked with organizations of persons with disabilities.

14. Within the framework of the National Action Plan, a number of legislative and practical measures had been taken in the past year, in spite of the negative impact of the international financial crisis and the blockade imposed by the Government of the United States for almost 50 years. The measures covered a variety of fields, including information technology, education, employment and social security, transport, housing, sport and culture. An increasing number of persons with disabilities were attending school and university. One important university reform allowed the teaching process to be adjusted to suit personal circumstances, helping students with disabilities to finish their courses. Particular attention had been given to providing housing for persons with disabilities after the hurricanes of the past year. Cuba had been developing an ambitious international cooperation plan to train doctors from around the world and share its experience.

15. **Mr. Dlamini** (Observer for Swaziland) said that the rights of persons with disabilities were enshrined in the Constitution of Swaziland, including their rights to education, health and employment. The Government was also redesigning its buildings to improve accessibility.

16. A school for deaf children had recently been built, in addition to existing rehabilitation facilities and vocational training centres for persons with disabilities. The Government had established a poverty fund for persons with disabilities to be used for development projects that contributed to their welfare and benefited the national economy as well. Persons with disabilities should be empowered to fully participate in all areas of society. A National Children's Policy was being finalized and included explicit references to children with disabilities.

17. Workshops had been conducted to raise awareness among the general population of the need to ratify the Convention. Two surveys were also being conducted as another step towards ratification. The first would help develop programmes for children and young people with disabilities and the second was a census that would be used as a benchmark in establishing more programmes for persons with disabilities.

18. **Ms. Blum** (Observer for Colombia) said that her country was well on its way to ratifying the Convention and had a broad, cross-cutting legal and political framework for addressing the needs of persons with disabilities. Its rights-based disability policy was founded on such principles as equality and solidarity, and its main aim was to improve conditions so that persons with disabilities could enjoy as much autonomy as possible.

19. The National Disability Council, under the aegis of the Ministry of Social Protection, is a permanent body to plan and coordinate public policy on the issue. Established in 2007, the Council was composed of representatives of high-level State bodies, alongside representatives of organizations of persons with disabilities and other civil society partners. Once the Convention entered into force in Colombia, ongoing processes would be strengthened even further, in particular, legislative initiatives and efforts to increase the participation of organizations of persons with disabilities in decision-making.

20. **Mr. Normandin** (Observer for Canada) said that his country was hoping to ratify the Convention before the end of the year, since the domestic negotiations were nearing completion. Canada provided strong guarantees for the equal rights of persons with disabilities and was committed to further reducing barriers to their full participation in society.

21. His Government had adopted measures at all levels to protect the rights of persons with disabilities, as enshrined in the Canadian Charter of Rights and Freedoms. Everyone had the right to protection under the law without discrimination, including those with mental disabilities.

22. **Mr. Poffe** (Observer for the Netherlands) said that his country welcomed the decision to hold regular sessions of the Conference of States Parties to the Convention, which would contribute greatly to raising awareness about the rights of persons with disabilities.

23. The Netherlands intended to ratify the Convention in 2010, through a procedure that would fully endorse its objectives and give it full effect in the domestic legal system. In the meantime, legislative measures were already being taken to implement the Convention, such as extending the applicability of the Act on Equal Treatment of Persons with Disabilities to include such areas as primary education.

(b) Interactive round tables on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities"

Round Table 1: Accessibility and reasonable accommodation

Prince Al-Hussein (Jordan), Acting Vice-President of the Conference, took the Chair.

24. **The President** said that the Convention recognized accessibility as a general principle as well as covering it specifically in article 9. Accessibility and reasonable accommodation were instrumental in the realization of basic rights for persons with disabilities. Legislative measures were needed to ensure the implementation of article 9. A dedicated organizational entity attached directly to the Office of the Prime Minister would be the most effective way of enforcing legislation on the issue, since it would bring the matter closer to the decision makers.

25. All new buildings should be built in accordance with accessibility codes and guidelines, and penalties should be imposed for failure to abide by those codes. It was important to conduct an overall study of measures that needed to be adopted to create an open, disability-friendly public system. The concept of accessibility extended beyond physical concerns and was now generally understood to include behavioural, educational, technological and linguistic accessibility.

26. **Mr. Bródi** (Hungary), Vice-President of the Conference, said that one of the most important innovations of the Convention was that it included the denial of reasonable accommodation as a form of discrimination. It also linked the issue to the promotion of equality, highlighting that equality included the right to reasonable accommodation, which might in some cases may require the State or others to allocate resources.

27. He invited the Conference to discuss ways and means of accommodating the special needs of persons

with disabilities in order to meet the requirements set out in the Convention. Allocating resources for reasonable accommodation should be viewed as an investment addressing an overall need of society, rather than just one group.

28. **Ms. Peláez Narváez** (Committee on the Rights of Persons with Disabilities), accompanying her statement with a computerized slide presentation, said that States parties' obligations under the Convention reflected the transition from a medical to a social model of disability, which implied respect for diversity and compensating for the unfavourable effects of disability by ensuring full enjoyment of rights. States parties' obligations with regard to accessibility were set out in article 9 of the Convention. Systems for auditing the level of compliance should be established and fines should be imposed for non-compliance; the resources raised could be used to fund the implementation of accessibility measures.

29. Accessibility was a cross-cutting issue mentioned in several other articles of the Convention, and States parties should maintain their commitment to it when implementing the requirement of reasonable accommodation. All implementation measures should be taken with the constructive participation of persons with disabilities and their representative organizations. In addition, international cooperation was a fundamental tool for enhancing the implementation of accessibility in countries that lacked resources.

30. **Mr. Chowdhury** (Committee on the Rights of Persons with Disabilities), accompanying his statement with a computerized slide presentation, said that the Convention did not confer new rights on persons with disabilities but rather drew together all their fundamental human rights into one legally binding instrument. Implementation of the principles of accessibility and reasonable accommodation would go a long way towards ensuring the dignity of persons with disabilities and including them in mainstream society. In each individual case, a number of practical issues needed to be taken into account, such as the special needs created by the particular disability in question, the impact of any measures on the surrounding environment, whether the measures would impose an undue financial or administrative burden and whether they were consistent with general standards such as housing codes.

31. Many countries already had laws and regulations aimed at ensuring accessibility but greater efforts were needed to ensure enforcement. States parties should aim to implement the principle of universal design in accordance with their existing resources and capacities, bearing in mind that it was more cost-effective to incorporate accessibility features during planning, design and construction phases than to remodel a structure once it had been completed. The relevant professionals should be provided with information and training in that regard. In addition, the needs of each individual country should be taken into account. For example, in developing countries, basic needs such as food security, shelter and livelihood, along with the right to education, employment and health care, were the most pressing priorities and required appropriate legislative frameworks and adequate funding. International cooperation in accordance with article 32 of the Convention was vital in order to address those priorities, particularly in the light of the global economic recession.

32. **Mr. Guzmán Jara** (Disabled Peoples' International), accompanying his statement with a computerized slide presentation, said that millions of persons with disabilities around the world lacked access to basic services. A mechanism for implementing accessibility and reasonable accommodation in the various areas highlighted by the Convention was therefore needed. Such a mechanism should consist of public investment by States in accordance with the proportion of their population made up of persons with disabilities; a fund to support national implementation of the Convention, financed by voluntary contributions from States parties, signatories, other States Members of the United Nations and private entities; and international technical cooperation in accordance with the principles of human rights, solidarity and human development. Research and data collection were also necessary in order to provide a solid basis for the mechanism. Resources should be focused on priority policies and programmes, in consultation with persons with disabilities in different countries, and should be provided to both State and civil society organizations.

33. **Ms. Hawker** (Rehabilitation International) said that accessibility and reasonable accommodation were both key to the successful inclusion of persons with disabilities in society. The denial of reasonable accommodation was a form of discrimination and,

unlike accessibility, the right to benefit from reasonable accommodation was immediately applicable. Reasonable accommodation referred to the adjustments required to enable a particular person to participate fully in society, although such adjustments might also benefit others. Further discussion was needed in order to determine precisely what was meant by an "undue burden" under article 2 of the Convention. There was also a need to dispel myths regarding the cost of implementation: studies had shown that most adjustments required no expenditure.

34. National laws should be amended in order to ensure that reasonable accommodation reflected the breadth of application envisaged under the Convention. In addition, guidelines should be developed to demonstrate the intent of the Convention. Accessible information should be provided on the right of persons with disabilities to accessible accommodation. State agencies should take a leading role and should have clear areas of accountability in that regard. Steps also needed to be taken to provide appropriate training and promote changes in attitudes.

35. Accessibility and reasonable accommodation were crucial to the transition from a medical to a social model of disability. Any measures aimed at achieving those aims must be developed in consultation with persons with disabilities themselves, so as to identify their needs accurately. Countries could learn from each other through international and regional cooperation in that regard. A huge amount of human potential was wasted if persons with disabilities were not able to participate fully in society.

36. **Ms. Pérez Álvarez** (Cuba) said that persons with disabilities faced not only physical obstacles but also obstacles to their participation in cultural life. In that regard, a broader concept of accessibility, encompassing the issues of copyright and intellectual property rights, was needed. International cooperation was essential and she expressed support for the idea of establishing a support fund. States spent millions of dollars on weapons while neglecting the needs of the millions of persons with disabilities in the world, many of whom suffered poverty or illiteracy.

37. **Mr. Mbacha** (South Africa) said that accessibility referred not only to the physical environment but also to the ability of persons with disabilities to live independently and participate fully in mainstream life. In South Africa, government departments at all levels were working to ensure accessibility to all types of facilities, including government buildings, and to provide information on topics such as safety and security in accessible formats, in accordance with the relevant legislation and policy. Measures were also being taken to improve access to health information and the news media. The national transport strategy included measures to enhance accessibility to public transport for persons with disabilities. Other programmes were in place to promote access to financial support and sports and recreation.

38. **Ms. Lisskar-Dahlgren** (Sweden) said that accessibility needed to be addressed in the general planning of society and mainstreamed into each policy area. Legislative measures were crucial to strengthening the position of individual persons with disabilities. New anti-discrimination legislation covering disability as well as other grounds of discrimination had entered into force in Sweden in January 2009, and an equality ombudsman had been appointed to ensure compliance with the law. Consultations were under way at the Government level to determine whether denial of reasonable accommodation could be regarded as a form of discrimination, what exactly was meant by "reasonable" and whether "accessibility" could be defined differently in different contexts.

39. About one third of States members of the European Union had ratified the Convention to date. As the current holder of the Presidency, Sweden would be encouraging the remaining member States to ratify the Convention and the Protocol as soon as possible. A proposed Council directive on implementing the principle of equal treatment was also under negotiation.

40. Her Government aimed to make its long tradition of cooperation between government and civil society more inclusive. To that end, men and women with disabilities and their representative organizations must be fully involved in the implementation of the Convention.

41. **Mr. Belazi** (Tunisia) said that, under a law adopted in 2005, his Government was working to ensure that the built environment, including public buildings, housing and sports facilities, was accessible to persons with disabilities. In addition, disabled persons and their companions enjoyed a number of

special benefits with regard to transport, such as free or discounted access to public transport, priority seating and reduced taxes on specially adapted vehicles. Efforts were also under way to make the media more accessible to persons with disabilities, for example by providing subtitling and sign language in television news broadcasts and other programmes, broadcasting regular radio and television programmes on the integration of persons with disabilities, and providing specially adapted information technology resources for the use of persons with disabilities in both mainstream schools and specialized education establishments.

42. **Ms. Gendi** (Egypt) said that her delegation would have liked to hear more about the issues of accessibility and reasonable accommodation in relation to a wider range of disabilities, particularly mental disabilities and multiple disabilities. Given that a large number of developing countries had ratified or signed the Convention, international cooperation was essential in order to enhance implementation. She also welcomed the idea of establishing a support fund for that purpose.

43. **Mr. Buntan** (Thailand) said that action beyond legislative measures was needed in order to achieve accessibility. The issue should be tackled at the international level and accessibility standards should be developed by a wide variety of stakeholders in different areas such as the built environment, transport and information technology. Lack of accessibility was often due to ignorance of the needs of persons with disabilities rather than a lack of resources.

44. The concepts of accessibility and universal design made the Convention unique among human rights instruments, but they needed to be embraced by the whole of society, not just by the disability community. Moreover, in some cultures, reasonable accommodation was viewed as a desirable objective to be pursued on a voluntary basis rather than as a necessity, and implementation therefore fell short of the requirements set out in the Convention. More training should be provided in that regard.

45. **Mr. Dornelles** (Brazil) said that the Convention was the first international human rights instrument to have acquired constitutional status in Brazilian legislation, although a number of laws recognizing the rights of persons with disabilities and promoting accessibility had already existed before the adoption of the Convention. Monitoring of enforcement was vital, particularly as there were no clear penalties for non-compliance. Data collection also needed to be improved so as to guide the development of measures aimed at implementing the Convention. Lastly, it was essential to facilitate the participation of civil society in public policy design, in accordance with the principle "nothing about us without us".

46. **Ms. Arias** (Peru) said that measures aimed at achieving accessibility needed to take account of the conditions in which people lived. For example, those living in poverty were particularly at risk of exclusion from services and facilities that could improve their lives. In developing countries, the implementation of various aspects of accessibility was dependent on enhanced international cooperation and exchange of experience.

47. **Mr. Waasdorp** (Observer for the Netherlands) said that his delegation was interested in learning how States parties implemented the principle of reasonable accommodation, particularly in so far as it related to access to goods and services used by the general public. Under the Convention, the precise meaning of reasonable accommodation was to be determined on a case-by-case basis. However, its consequences, in terms of minimum accessibility requirements for certain goods and services and a definition of what constituted an "undue burden" for suppliers, could be established in domestic law. Such an approach would enhance legal certainty both for suppliers and for persons with disabilities.

48. **Ms. Shalev** (Observer for Israel) said that the adoption of the Convention had helped to bring about a paradigm shift in society's perception of persons with disabilities. Her Government had been closely involved in the drafting of the Convention and, having signed it, was making preparations for ratification. Several pieces of legislation relating to accessibility and reasonable accommodation had been adopted recently, including one which stipulated that all public places and services must be accessible to persons with physical and non-physical disabilities. Her delegation wished to know what measures other States had taken in order to ensure that persons with non-physical disabilities had access to the services that they needed.

49. **Mr. ten Geuzendam** (Observer for the European Community) said that the European Community had signed the Convention and was making progress towards ratification. The Community's competence

with regard to accessibility and reasonable accommodation derived from its secondary legislation, which served to ensure consistency among the States members of the European Union in the interpretation and implementation of the Convention. A Council directive of 2000 had introduced measures to ensure equal treatment in employment, including the prohibition of discrimination on the grounds of disability and a positive duty of reasonable accommodation. Member States were required to adopt national legislation in order to implement the provisions of the directive and the Commission had the power to take action against those which failed to do so. Work was also under way at the community level to extend that legal framework to other areas besides employment.

50. **Ms. Lawson** (Mental Disability Advocacy Center), responding to a comment made by the representative of Egypt, drew attention to the Center's position paper on reasonable accommodation for persons with psychosocial and intellectual disabilities. Reasonable accommodation referred to adjustments made for a particular individual, while accessibility referred to measures taken for a group of persons. However, the two concepts were interlinked because the removal of a barrier for an entire group eliminated the need to make adjustments on an individual basis, and conversely adjustments made for one person could benefit others.

51. She urged States to ensure that any new legislation on accessibility was enforceable through, for example, planning law, regulatory mechanisms, inspections, licensing requirements or anti-discrimination law. States should also be aware of the link between lack of accessibility and discrimination. In a number of cases in Australia, accessibility issues had been recognized as a cause of indirect discrimination, while United Kingdom law established the concept of anticipatory reasonable adjustments, which was also provided for in a new draft European directive.

52. **The President** urged that all State parties to implement the Convention fully, stressing that accessibility and reasonable accommodation must be regarded as basic human rights. Priority should be given to capacity-building efforts, with the full involvement of persons with disabilities, and guidelines for universal design should be developed. Legislation safeguarding the rights of persons with disabilities should lay the foundations for a culture of inclusion cherished by all sectors of society. Lastly, he emphasized the importance of international cooperation and urged those States which had not yet ratified the Convention to do so as soon as possible.

The meeting rose at 6.05 p.m.

United Nations CRPD/CSP/2009/SR.3

Convention on the Rights of Persons with Disabilities

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Conference of States Parties to the Convention on the Rights of Persons with Disabilities

Second session

Summary record of the 3rd meeting

Held at Headquarters, New York, on Thursday, 3 September 2009, at 10 a.m.

President: Ms. Mayende-Sibiya (Acting Vice-President) ..... (South Africa)

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(b) Interactive round tables on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities"

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09-50178 (E)

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In the absence of Mr. Heller (Mexico), Ms. Mayende-Sibiya (South Africa), Acting Vice-President, took the Chair.

The meeting was called to order at 10.10 a.m.

Matters related to the implementation of the Convention

(b) Interactive round tables on the theme "Legislative measures to implement the Convention on the Rights of Persons with Disabilities"

1. **The Chairperson** read out articles 12 and 13 of the Convention on the Rights of Persons with Disabilities.

2. Speaking as the representative of South Africa, she said that her Government ensured that persons with disabilities enjoyed legal capacity on an equal basis. Often the victims of crime, persons with mental disabilities were protected under her country's Mental Health Act.

3. **Mr. McLay** (Acting Vice-President, Conference of States Parties) said that States parties to the Convention would have to review their legal systems to ensure that they complied with the Convention regarding decision-making by persons with disabilities. Centuries of legal practice and societal attitudes with regard to disabled persons have been an obstacle to the implementation of article 12 of the Convention.

4. **Ms. Cisternas Reyes** (Committee on the Rights of Persons with Disabilities) said that the Convention superseded the constitutions of States parties and that its rules, which were self-applicable and self-executing, must take effect as soon as possible. Article 12 went beyond article 2 of the International Covenant on Civil and Political Rights in its recognition of the equal legal capacity of persons with disabilities, bringing nineteenth century legislation up to date with advances in technology and medicine.

5. Support was required to apply the rules of the Convention to specific cases of the legal capacity to make decisions. Family and peer networks must be trained to facilitate decision-making. Society as a whole must be made aware of the need for, and be willing to provide, such support.

6. Assistance must be channelled through ministries of social affairs and justice, national commissions on persons with disabilities and independent organizations. Persons of recognized probity, with training in the rights of the disabled, must be available to assist in decision-making. Accountancy services must support persons with disabilities in handling their finances, without interfering in decisions. The support provided by non-governmental organizations (NGOs) must be financed through State subsidies, private contributions or a joint system. Persons with disabilities should have access to technology so that they could exercise their legal capacity. Computers allowed people to communicate, even when they had severe sensory impairment or could not speak.

7. Article 13 of the Convention had taken the guarantees of due process contained in article 14 of the International Covenant on Civil and Political Rights and broadened them to ensure equal access to justice of persons with disabilities. Consequently, changes must be made in the legislation and in the procedures of States parties. Access to justice was guaranteed for all parties to a case: defence, prosecution and witnesses.

8. **Ms. Minkowitz** (World Network of Users and Survivors of Psychiatry) said that it was important to define legal capacity from the point of view of persons with disabilities and to discuss the challenges ahead. No country had complete equal recognition of legal capacity or had fully eliminated forced mental health treatment. Support was needed for persons with disabilities to express their will, free from abuse that could masquerade as help.

9. Declarations of contractual incapacity affected, inter alia, the blind and deaf-blind, who were denied the right to sign legal instruments. That undermined the Convention's provisions on equal recognition.

10. Challenges included the lack of experience in supported decision-making, the fears of carers who did not want to give up control and the lack of doctrines concerning discriminatory notions of incapacity.

11. **Mr. Stenta** (Italy) said that a distinction should be made between legal rights and legal capacity. Some persons were incapable of taking legal action for a variety of reasons, ranging from lack of training in the law to mental incapacity. The Italian Parliament was therefore considering measures that would give persons with disabilities greater legal independence through supported decision-making. His country had also abolished the forced institutionalization of the mentally disabled nearly 30 years ago.

12. **Mr. Asrik** (Morocco) said that, in order for persons with disabilities to enjoy their rights, they must be accorded equal recognition before the law. Judges and the courts should make greater efforts to accommodate persons with disabilities. To that end, his country had enacted legislation that required courts to provide sign-language interpreters. Additional legislation on legal capacity and equal recognition before the law that incorporated the provisions of all relevant international instruments would soon be enacted.

13. **Mr. Buntan** (Thailand) said that, in order to ensure equal access to justice, his country's Constitution required that legal assistance and special accommodations be made available to disabled persons. However, Thai society recognized that it was difficult for persons who assisted the disabled to draw the line between assisted decision-making and substitute decision-making, particularly in cases where the person was not completely disabled. He therefore called for the issuance of guidelines in that regard.

14. **Mr. Kim** Dong-ho (Republic of Korea) said that, although his country's laws provided for the appointment of guardians for incompetent and quasi-incompetent persons, the system was overly complex and focused on property management. There was a need for a new guardianship system that reflected the spirit of article 12 of the Convention. Although it was hoped that such a system would be in place by 2010, debate would still continue on how to strike a balance between supported decision-making and the guardianship system.

15. **Mr. Burniat** (Belgium) said that although persons with disabilities were protected under his country's anti-discrimination laws, its legislation was still lagging in respect of legal capacity. The approach currently employed was paternalistic and little progress had been made in developing alternatives. Although many laws had been amended, other reform efforts had been sidetracked by discussion of important issues, such as the rights of third parties and property rights. The ratification of the Convention would help to move things forward, as his Government now had international obligations that it was obliged to fulfil.

16. **Ms. Lisskar-Dahlgren** (Sweden) said that all Swedish citizens, including those with disabilities, enjoyed legal capacity, and that the legal system provided all persons with the support required to make independent decisions. Support was tailored to individual needs and legal capacity was limited only to the extent necessary to protect an individual from injury. Courts could appoint either an administrator or an ad litem guardian. Both administrators and ad litem guardians were subject to supervision by the relevant authorities.

17. **Ms. Bernardes** (Brazil) said that her Government, in cooperation with non-governmental organizations, was in the process of amending Brazilian law to bring it into compliance with the provisions of the Convention, including those concerning access to justice. Despite both anti-discrimination and affirmative action laws, very few persons with disabilities were employed in the judicial system. The law provided for total and partial guardianship and both forms were used to protect the property of individuals. However, total guardianship, in which the rights of the disabled person were completely suspended, was the form most frequently granted. Awareness-raising programmes were needed to encourage judges to grant partial guardianship, thereby safeguarding the human rights of the disabled.

18. **Ms. Scown** (New Zealand) said that enduring power of attorney was being abused by the children of elderly parents. Those children were frequently invoking that power too early and taking decisions that benefited themselves, even when the parent was still capable of making a decision. Her country had therefore amended its laws on the enduring power of attorney and a parent was now no longer assumed to be incompetent simply for taking a decision that did not please his or her children.

19. **Ms. Velotti** (Panama) said that Panamanian law did not recognize the legal capacity of persons with disabilities. However, the Government was in the process of amending domestic legislation to bring it into compliance with the Convention.

20. **Ms. Bersanelli** (Argentina) said that a database of good practices should be created. The Committee on the Rights of Persons with Disabilities should also develop a training programme for States parties on the implementation of the Convention.

21. **Mr. McLay** (Acting Vice-President, Conference of States Parties) said that the points that had been raised challenged deep-seated views and centuries of jurisprudence. Ensuring the primacy of the Convention over domestic law and achieving full compliance with

its provisions might require States parties to amend their Constitutions. The status of the Convention in common-law jurisdictions was interesting because it gave rise to the question of whether judges should implement the Convention prior to its codification as domestic law.

22. It was troubling that certain jurisdictions denied persons with disabilities the right to make their own decisions and make their own mistakes, which were rights that were enjoyed by the vast majority of people. Significant questions surrounded the issue of supported decision-making, including the forms in which support should be provided. Many laws on treatment without consent would have to be changed; however, lawmakers might find it hard to argue in favour of such change.

23. Greater human longevity had resulted in a higher incidence of dementia and raised questions about how supported decision-making could be harmonized with court-imposed guardianship. The idea that incapacity was in and of itself discriminatory gave rise to the question about what societies should do to protect fundamental social values.

24. Although legal rights applied to all human beings, the law often assumed that some persons were not capable of exercising those rights. In order to address that problem, it was incumbent on the courts to facilitate access to persons with disabilities. Doing so would be challenging because judges held very traditional views of how court proceedings and investigations should be conducted and would not be easily persuaded to adopt any innovations in that regard.

25. Noting that the difference between assisted decision-making and substitute decision-making was often not very clear, he expressed the hope that the Conference of States Parties to the Convention would be able to provide guidance regarding the application of those concepts.

26. **Ms. Minkowitz** (World Network of Users and Survivors of Psychiatry) said that an example of supported decision-making was the use of a person who had developed a close relationship with an intellectually disabled person to interpret the latter's non-verbal communications. Persons with psychosocial disabilities could also be assisted in a similar manner. In such cases, the supporter would help the disabled person to find the services that he or she needed.

27. **Ms. Cisternas Reyes** (Committee on the Rights of Persons with Disabilities) said that article 8, on awareness-raising, was fundamental to the implementation of the Convention. Judges and the police needed to be informed about the support provided to persons with disabilities.

28. **Ms. Maina** (Vice-Chairperson of the Committee on the Rights of Persons with Disabilities) said that States were responsible for developing, promoting and offering support services for persons with disabilities and for replacing substituted decision-making legislation with frameworks for supported decision-making.

29. Enabling legislation on supported decision-making must: recognize supported decisions as being legally valid; outline ethical duties and guidelines for those who would act in a supportive role; and outline procedural guidelines that would validate supported decision-making.

30. To ensure compliance with article 12 of the Convention, State legislation must validate and recognize supported decision-making as legitimate, outline the duties of supporters and include provisions for their accountability, and indicate how those with no one to assist them could request support.

31. Supporters must give effect to the desires, wishes and choices of the person supported. They should take all practical steps necessary to determine such, including by using aids to communication. Supportive decision makers must not, however, assist in giving effect to decisions that would be illegal.

32. **Ms. Leibowitz** (International Disability Alliance-Convention on the Rights of Persons with Disabilities Forum) said that beyond understanding what was meant by access to justice and listing the rights of persons with disabilities, change on the ground involved removing the specific barriers they faced, including physical, communicational and procedural barriers.

33. Testimony by persons with disabilities should not be discredited and formal language should be avoided to enable them to understand and to use alternative forms of communication. Court officials and the police should be given training in how to communicate with persons with disabilities.

34. Examples of how to give disabled persons equal access to the justice system included the abolition of

exclusionary laws and the implementation of procedural accommodation. Allowing them to be accompanied by support providers during investigation or testimony facilitated communication, as did the use of alternative and augmentative communication aids. Experts could clear up any misunderstanding with respect to particular disabilities and could explain forms of communication in courtrooms.

35. **Ms. Arabian-Couttolenc** (Mexico) wondered what the panel and States parties in general thought of the idea of organizing a series of meetings to raise the awareness of States, their legislative bodies and members of their judiciary of the importance of implementing articles 12 and 13 of the Convention.

36. **Ms. Primor** (Israel Human Rights Centre for People with Disabilities) said that fairness in criminal law and procedure was crucial to securing equality before the law for disabled persons, both as victims and defendants. There was a systematic neglect of the needs of persons with disabilities in criminal proceedings. Governments and societies were also reluctant to acknowledge that persons with disabilities constituted a large proportion of the victims of crime.

37. Her organization had adopted a two-pronged approach in order to help disabled persons involved in criminal cases. The first part of that approach was to give disabled persons a pretrial tour of the court room. The second part was aimed at bringing about a systematic change in the way in which the justice system dealt with disabled persons. Working in close collaboration with the Israeli Ministry of Justice, the organization had succeeded in changing the laws concerning the treatment of disabled persons in criminal cases. Special procedures and accommodations were now required, ranging from expert testimony regarding the condition of the disabled person to special communications equipment.

38. **Mr. Vardakastantis** (European Disability Forum) said that the aims of the Convention would not be achieved unless articles 12 and 13 were fully implemented. Discussions at the current Conference had demonstrated the need to build the capacities of all parties involved in the Convention's implementation. Indeed, negotiating the Convention had been a simple matter when compared to its implementation. States parties should therefore give serious consideration to calls for the establishment of an intersessional group and a special United Nations fund.

39. **Ms. Richler** (Inclusion International) said that her organization was concerned that, although some States had already eliminated or were in the process of eliminating legal guardianship, substitute decision-making was still being practised, but under a different name. Moreover, there were no clear rules as to the circumstances in which guardians were appointed. She urged States parties, even those that had carried out reforms, to acknowledge that substitute decision-making was still being used to deprive persons with disabilities of their rights, and called for cooperation among all parties to solve the problem.

40. **Mr. McLay** (Acting Vice-President, Conference of States Parties) said that, while it was clear that implementation of articles 12 and 13 would not be easy and required legislative action at many levels, it was nonetheless achievable. The Convention broadened the concept of due process, particularly as defined in article 14 of the International Covenant on Civil and Political Rights.

41. Much of the action required to implement the Convention was or should be a matter of common sense. For example, a judge did not need a law to authorize the use of interpreters or other facilitators in the courtroom. The disposition of a human rights treaty should certainly be self-adjustable.

42. Article 13 of the Convention required the abolition of all laws that limited the capacity of persons to testify or prohibited them from doing so. Without such change, evidence would not be properly collected and the validity of testimony would be easily challenged. Recalling that many courts and judicial systems had found ways of accommodating disabled lawyers and judges, he wondered why the same could not be done for witnesses and litigants.

The meeting rose at 12.35